

Application Number: 10/536,539

Attorney Docket: PD020111

Appeal Brief

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants: SCHMIDT, et al.

Examiner: MCCORD, Paul C.

Serial No: 10/536,539

Group Art Unit: 2614

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Docket: PD020111

Confirmation No.: 5066

For: Method and Apparatus for Processing Two or more Initially Decoded Audio Signals Received or Replayed from a Bitstream

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APPEAL BRIEF

Appellant appeals the status of Claims 1 and 2 as presented in response to the final Office Action dated February 13, 2009, and submits this Appeal Brief.

TABLE OF CONTENTS:

| | | |
|-----|---|---------|
| 1. | Real Party in Interest | page 3 |
| 2. | Related Appeals and Interferences | page 3 |
| 3. | Status of Claims | page 3 |
| 4. | Status of Amendments | page 3 |
| 5. | Summary of Claimed Subject Matter | page 4 |
| 6. | Grounds of Rejection to be Reviewed on Appeal | page 5 |
| 7. | Argument | page 5 |
| 8. | CLAIMS APPENDIX | page 9 |
| 9. | RELATED EVIDENCE APPENDIX | page 10 |
| 10. | RELATED PROCEEDINGS APPENDIX | page 11 |

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Attorney Docket: PD020111

Appeal Brief

1. Real Party in Interest

The real party in interest is THOMSON LICENSING S.A., the assignee of the entire right, title and interest in and to the subject application by virtue of an assignment recorded with the Patent Office on May 26, 2005 at Reel/Frame 017396/0302.

2. Related Appeals and Interferences

Appellant is not aware of any appeals or interferences related to the present application.

3. Status of Claims

- a) Claims 1 and 2 are pending. Claim 1 is independent.
- b) Claims 1 and 2 stand rejected and are under appeal.
- c) Claims 3 and 4 are cancelled.

4. Status of Amendments

An amendment under 37 C.F.R. § 1.111, mailed to the PTO on December 18, 2008, in response to a non-final Office Action dated September 26, 2008, was entered. No responses/amendments were filed subsequent to the December 18, 2008 response. The claims listed in section 8 “Claims Appendix” of this Appeal Brief correspond to the claims submitted in Appellant’s response of December 18, 2008.

5. Summary of Claimed Subject Matter

It should be explicitly noted that it is not the Appellant's intention that the currently claimed or described embodiments be limited to operation within the illustrative embodiments described below beyond what is required by the claim language. Further description of the illustrative embodiments are provided indicating portions of the claims which cover the illustrative embodiments merely for compliance with requirements of this appeal without intending to read any further interpreted limitations into the claims as presented.

The claimed invention, as recited in claim 1, is directed to a method for processing two or more decoded but not yet combined audio signals received or replayed from a bitstream (Fig. 3 and page 8, lines 2 – 7), that each said decoded audio signals has a different number of channels and/or different channel configurations (page 4, lines 13 – 14), and that said decoded audio signals are to be combined by mixing and/or switching before being presented in a final channel configuration (page 4, lines 15 – 16), wherein to each one of said decoded audio signals a corresponding specific channel configuration information item is attached (page 4, lines 16 – 18) and the channel configuration information items for said two or more decoded audio signals can demand channel configurations conflicting with each other, and wherein said mixing and/or switching is controlled such that in case of non-matching number of channels and/or types of channel configurations the number and/or configuration type of the channels to be output following said mixing and/or following said switching is determined by specific mixing and/or switching information provided from a content provider or broadcaster (page 4, lines 19 – 25), and wherein to the combined data

stream to be presented a correspondingly updated channel configuration information item is attached (page 4, lines 26 – 28).

6. Grounds of Rejection to be Reviewed on Appeal

A. Whether claims 1 is properly rejected under 35 U.S.C. §103(a) over Jin (US Patent 6,867,820) and further in view of Van Steenbrugge (WO 98/55998, hereinafter “Van”).

B. Whether claim 2 is properly rejected under 35 U.S.C. §103(a) over Jin and Van, further in view of Saunders et al. (US PGPub 2002/0040295, hereinafter “Saunders”).

7. Argument

Appellant respectfully traverses the rejections in accordance with the detailed arguments set forth below.

A. Claim 1 is not properly rejected under 35 U.S.C. §103(a) over Jin and Van.

It is respectfully submitted that the Examiner failed to establish a *prima facie* case of obviousness, because as discussed below, a suggestion of all limitations in Appellant’s claims is lacking in the combination of Jin and Van.

Appellant’s claim 1, in part, requires:

“said mixing and/or switching is controlled such that in case of non-matching number of channels and/or types of channel configurations the number

and/or configuration type of the channels to be output following said mixing and/or following said switching is determined by specific mixing and/or switching information provided from a content provider or broadcaster.”

In the Office Action, page 4, the Examiner conceded that Jin does not explicitly teach mixing/switching the various input audio signals. However, the Examiner asserted that the operation of a mixer is implicitly described. Appellant submits that for argument's sake, even if a mixer is implicitly described in Jin, there is no teaching or suggestion that the mixer in Jin is controlled such that in case of non-matching number of channels and/or types of channel configurations the number and/or configuration type of the channels to be output following said mixing and/or following said switching is determined by specific mixing and/or switching information provided from a content provider or broadcaster, as claimed.

In the Office Action, pages 3 – 4, the Examiner asserted that in the case of non matching channels or configurations possible outputs and output configurations are based at least on specific information provided by a content provider or broadcaster, such as in the case of Jin Table 6 or in the event of AC-3 encoding illustrated in Figure 5. However, Appellant submits that Table 6 refers to only a single input signal source, i.e. a single Dolby 5.1 signal. Table 6 shows how the deep bass content of different partial signals of the 5.1 signal is commonly directed to a single subwoofer loudspeaker, but does not teach or suggest how to mix or switch two or more input signal sources having conflicting channel numbers or configurations so as to provide a combined output signal. Appellant further submits that Fig. 5 does not show any mixing or switching two or more input signal sources having conflicting channel numbers or

configurations either.

Appellant further submits that Jin discloses establishing a menu for a user, in which the menu shows how a single one of the different input signal sources can be selected in view of the loudspeakers connected inside or outside a digital TV. However, Jin does not teach or suggest how to mix or switch two or more input signal sources having conflicting channel numbers or configurations so as to provide a combined output signal. Therefore, Jin fails to teach or suggest the above claimed feature.

Appellant further submits that Van does not teach or suggest that two different type audio signals are presented in a combined form. Van clearly teaches that either the PCM audio signal or the MPEG encoded audio signal is selected and processed in the audio decoder 24 (i.e. the presenter). In Van, one audio signal is selected whereas the other one is completely muted (page 2, lines 4 – 5), i.e. only one of the audio signals is processed and presented at a time. Because only one audio signal is processed and presented at a time, thus, by definition, no conflicting channel configuration can occur. Therefore, Van fails to cure the defects present in Jin with respect to claim 1.

In view of at least the foregoing, Appellant submits that claim 1 is patentable over Jin and Van either singly or in combination and that the rejection of claim 1 should be reversed.

B. Claim 2 is not properly rejected under 35 U.S.C. §103(a) over Jin and Van, further in view of Saunders.

Claim 2 depends from claim 1, and thus inherits all the features of claim 1. In the Office Action, the Examiner apparently only relied on the secondary reference Saunders for teaching the additional features recited in the dependent claim and did not allege that Saunders teaches the features of claim 1, which Jin and Van were relied upon as teaching. To avoid repetition, the dependent claim will not be discussed in detail with the understanding that it is patentable at least for the same reasons as discussed above. Accordingly, since Saunders fails to cure the deficiencies in Jin and Van with respect to features in claim 1, dependent claim 2 is also allowable at least by virtue of its dependency, as well as the additional subject matter recited therein and the rejection should be reversed.

Conclusion

None of the cited references, either taken singly or in combination, teach or suggest all of the claim limitations of the pending claims. Accordingly, it is respectfully requested that the Board reverse the rejection of claims 1 and 2 under 35 U.S.C. §103(a).

Respectfully submitted,
Schmidt et al.

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8. CLAIMS APPENDIX

1. (Previously presented) Method for processing two or more decoded but not yet combined audio signals received or replayed from a bitstream, that each said decoded audio signals has a different number of channels and/or different channel configurations, and that said decoded audio signals are to be combined by mixing and/or switching before being presented in a final channel configuration, wherein to each one of said decoded audio signals a corresponding specific channel configuration information item is attached and the channel configuration information items for said two or more decoded audio signals can demand channel configurations conflicting with each other,

and wherein said mixing and/or switching is controlled such that in case of non-matching number of channels and/or types of channel configurations the number and/or configuration type of the channels to be output following said mixing and/or following said switching is determined by specific mixing and/or switching information provided from a content provider or broadcaster,

and wherein to the combined data stream to be presented a correspondingly updated channel configuration information item is attached.

2. (Previously presented) Method according to claim 1, wherein said bitstream has MPEG-4 format.

3. – 4. (Cancelled)

9. RELATED EVIDENCE APPENDIX

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title nor any other evidence entered by the examiner and relied upon by appellant in the appeal.

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Appeal Brief

10. RELATED PROCEEDINGS APPENDIX

Appellant is not aware of any appeals or interferences related to the present application.